

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

GERALD GRADIA, as Personal Representative  
of the Estate of JAY GRADIA, Deceased,

Plaintiff,

vs.

Civ. No. 02-286 WWD/LFG ACE

ERIC TANNER and KLLM INCORPORATED,

Defendants.

MEMORANDUM OPINION AND ORDER

This matter comes before the Court upon Defendants' Motion in Limine to Exclude the Testimony of Dr. Allen Parkman Regarding Loss of Value of Life or Hedonic Damages [docket no. 27]. In responding to Defendants' motion, Plaintiff relies in part on Smith v. Ingersoll-Rand Co., 1999 U.S. Dist. LEXIS 23442, which is attached to his response. In Smith, Judge Vazquez found that the economic studies which purportedly would allow valuation of hedonic damages by an expert would fall into the category of social science and would not require a Daubert analysis of the proposed testimony since the proper analysis would be under Fed. R. Evid. 702. Judge Vazquez went on to find that the use of the economist's testimony for purposes of placing a value on hedonic damages would not be reliable and that it would be unhelpful and confusing to the jury; therefore, Judge Vazquez did not allow the economist to place a value on the hedonic damages suffered by the Smiths. However, Judge Vazquez did allow the expert in her case to give testimony explaining hedonic damages. I agree with the approach and logic taken by Judge

Vazquez in the Smith case. While I will not allow the expert in this cause, Dr. Allen Parkman, an economist, to testify regarding the value of the hedonic damages suffered by Plaintiff's deceased, I will allow him to explain the nature of hedonic damages. Also, Dr. Parkman may give his opinion as to the economic loss to the estate caused by the death of Jay Gradia.

**WHEREFORE,**

**IT IS ORDERED** that Defendant's Motion in Limine to Exclude the Testimony of Dr. Allen Parkman Regarding Loss of Value of Life or Hedonic Damages [docket no. 27], is **GRANTED IN PART** and **DENIED IN PART** as set out above.

  
UNITED STATES MAGISTRATE JUDGE